

DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION MADE
UNDER SECTION 5 OF THE TRADE UNION ACT 1984.

Applicant: B LILEY

Trade Union: TRANSPORT AND GENERAL WORKERS' UNION

DATE OF DECISION: 21 April 1986

DECLARATION

Under section 5 of the Trade Union Act 1984 I am empowered to make a declaration applied for by any person who claims that their trade union has failed to comply with one or more of the provisions of Part I of the Act. In making the declaration I am required to specify the provisions with which the trade union has failed to comply.

For the reasons which follow I declare that, in relation to the election, held between 11 November 1985 and 6 December 1985, of two representatives of the Region No. 1 (Inner-A) constituency of the Transport and General Workers' Union to serve for two years on the General Executive Council of the Union, the Union failed to comply with section 2(7) of the Act, (or with that section as it may be modified by section 3(1)), in that the Union failed to do all that was reasonably practicable to ensure that the members of Branch 1/200 were sent or had made available to them or were supplied with voting papers and were given an opportunity to vote.

The Application

1. This decision concerns an application made by Mr B Liley under section 5 of the Trade Union Act 1984 ("the Act"). On 18 December 1985, I received a letter of complaint from Mr Liley to the effect that the members of the Branch of the Transport and General Workers' Union ("the Union") to which he belonged, Branch 1/200 (Oil Trades), had had no opportunity to vote in the recent election of representatives for the Union's General Executive Council.

The Facts

2. The relevant facts are not in dispute. The General Executive Council of the Union is made up of two types of representatives - those from the territorial regions of the Union and those from the national trade groups. The territorial regions are in some cases broken down into smaller constituencies. Thus, this application relates to the election of representatives of the Inner-A constituency of Region No.1 (London and Home Counties). Mr Liley is a member of Branch 1/200 (Oil Trades), which lies within that constituency.

3. The members of that Branch were entitled to vote in the election of representatives of their constituency which was held between 11 November and 6 December 1985. The Union intended to allow the Branch to vote by calling a meeting of the Branch at a hall attached to the Fishing Smack public house in Barking. However the hall proved to be unavailable for the occasion and no other arrangements for voting were made. As a result no member of the Branch was able to record a vote in the election.

Reasons for making the Declaration

4. It seems to me that this case turns on whether the Union did all that was reasonably practicable to ensure that every member of Branch 1/200 had a proper chance to vote; which is to say, to obtain a voting paper and to vote in one of the ways

specified by section 2(7) of the Act or by that section as it may be modified by section 3(1). In the event, I do not have to determine whether the opportunity which the Union had planned to give the Branch - that of voting at a Branch meeting at a hall attached to the Fishing Smack public house - would have met that obligation, because that opportunity never materialised. The Union have acknowledged that no further attempt was made in the remaining period of the election following the cancellation of the meeting to provide another chance for the members to record their votes; and they did not show that it was not reasonably practicable to do so. In the circumstances I have no doubt that the officials charged by the Union with the conduct of the election in the constituency did not do all that was reasonably practicable to ensure that every member of Branch 1/200 had a proper chance to vote. The General Secretary of the Union did not seek to disclaim the Union's responsibility for the failure.

Steps to be taken to remedy the declared failure

5. The General Secretary gave me assurances that, as a result of a rules revision conference in December 1985, revised arrangements had already been made for future territorial elections. The effects of these arrangements were that the Union would devote more resources to future elections, would improve their publicity to their membership, and would strengthen their instructions to permanent officials. Indeed, I was told that these arrangements had already been implemented for the 1986 Executive Council elections for trade group representatives.

Observations

6. As I have already indicated, there can be no doubt that the application was fully justified. Because of administrative shortcomings, none of the members of the applicant's Branch had any opportunity to vote in an election for their representatives on their Union's General Executive Council. I was told that Branch 1/200 has 272 members and that even had they voted their votes could not have affected the result of the election.

Nonetheless, for those 272 members the Union's failure could scarcely have been more serious: they were effectively disenfranchised in an election for who should represent them on the body that runs the Union. It is to the Union's credit that in response to my enquiries they readily acknowledged error in this case, expressed unreserved apologies and gave me a number of assurances concerning improved arrangements for future elections. I would only add that in my view the Union would be well advised, in working on such improvements, to make a further, very careful study of the relevant statutory requirements.